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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,674	02/22/2002	Narihiro Omoto	16869S-044300US	3124
20350	7590	03/08/2005	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			ZURITA, JAMES H	
		ART UNIT	PAPER NUMBER	3625

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/082,674	OMOTO ET AL. N
<b>Examiner</b>	<b>Art Unit</b>	
James H Zurita	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 22 February 2002.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 22 February 2002 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## DETAILED ACTION

### *Priority*

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Drawings*

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4):

- reference characters "109" and "106" have both been used to designate account pending file: Paragraph 23 refers to account pending file **109** and membership DB **109**.
- Fig. 3 shows user name is item **302**, Paragraph 25 refers to user name **202**.
- Paragraph 27, states "...without any request for test use (NO in step 500)..." should be changed to "...without any request for test use (NO in step **511**)..." to reflect Fig. 5.

Fig. 6 should be modified as follows to match the description found in paragraph 28, last two sentences:

The arrow connecting decision block 70 to end should be labeled **yes**.  
The arrow connecting decision block 70 to step 62 should be labeled **no**.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action.

The objection to the drawings will not be held in abeyance.

***Claim Objections***

The claims contain minor informalities:

Applicant uses (a) application utilization charge (b) utilization charge and (c) application service charge. Terms (a) and (b) appear to be synonyms, referring to what a user is required to pay for using a particular piece of software. Application service charge appears to refer to an amount of money payable to each application service provider for use of that provider's software modules.

Claims 1 and 8 refer to an "...application registration request..." that is not otherwise mentioned in the disclosures.

Claims 1, 2, 6-8 contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claims refer to ASP registration information, which is mentioned only in paragraph 6 of the specification and in the claims. The term appears to correlate to Fig. 7, bottom image, which is not described.

Claims 1-4 and 8 appear to attempt to invoke the sixth paragraph of 25 USC 112. Please refer to MPEP 2181 for 3-prong analysis applicable to claims seeking to invoke sixth paragraph of 35 USC 112.

In Claim 3, it is not clear how one converts a software module [applicant's application] into an icon. One usually uses an icon as a link or shortcut to an

executable module; there is no conversion since the executable module continues to exist.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Ginter et al. (US 5892900).

Ginter discloses system, methods and computer-readable storage media for monitoring the execution of software applications in a centralized electronic hub (applicant's electronic mall). Ginter's electronic hub includes storage for software that may be registered by a plurality of content providers (applicant's application service providers/ASP). Ginter discloses charging users for usage of the various software according to various schemes, including applicant's methods of recording start and end time of utilization. Ginter discloses settling accounts, such as by paying content providers for use of their software.

**As per claim 1, Ginter discloses:**

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1.1 storage means for monitoring (applicant's registering) execution [of] applications of a plurality of content providers. See, for example, Fig. 7, item 608

1.2 means for **settling** the utilization charge for each user corresponding to the amount of utilization of each application and the application service charge acquired by each content provider. See, for example, Fig. 4 and related text concerning different types of charges levied. For settlement and distribution to content providers, please see at least Col. 316, lines 5-53.

1.3 means for generating, in said content provider registration storage means, content provider registration information in response to an application registration request which may be received from any content provider. See, for example, col. 20, lines 4-23, Col. 24, lines 54-Col. 25, line 35, Col. 130, lines 19-32, Col. 139, lines 8-15.

1.4 means for executing a plurality of applications of a plurality of different content providers. See, for example, Col. 15, line 62-Col. 16, line 44.

**As per claim 2, Ginter discloses**

2.1 means for generating, in said content provider registration storage means, the content provider registration information for the electronic hub system, based on the applications for registration filed by a plurality of the content providers. See, for example, col. 20, lines 4-23, Col. 24, lines 54-Col. 25, line 35, Col. 130, lines 19-32, Col. 139, lines 8-15.

2.2 means for adding a new application to said content provider registration storage means. See, for example, Col. 18, line 39-Col. 19, line 8.

2.3 means for deleting an application from said content provider registration storage means. See, for example, Col. 18, line 39-Col. 19, line 8.

2.4 means for *updating* a previous application for the electronic hub system based on the data of the application updated at the time of version-up of a registered application. See, for example, Col. 239, line 55-Col. 230, line 54.

**As per claim 3,** Ginter discloses

3.1 means for calling an application from said content provider registration storage means and converting an executable application into an icon. See, for example, Col. 26, line 66-Col. 28, line 15.

3.2 means for generating an execution screen in response to an instruction to execute the application selected through the icon. See, for example, Col. 26, line 66-Col. 28, line 15.

3.3 means for taking a log of the start time and the end time of the execution of an application. See, fore example, at least Col. 154, lines 21-Col. 155, line 35.

**As per claim 4,** Ginter discloses

4.1 means for executing an application in *bench mark* mode. The term bench mark is interpreted to read on guest ID, temporary ID, trial subscription. See, for example, at least references to trial subscription, Col. 215, lines 6-42.

4.2 bench mark means for preventing the utilization charge from being levied for an application executed for not longer than a predetermined time by the user desirous of checking the performance of said application. See, for example, at least Col. 140, lines 10-61.

**As per claim 5,** Ginter discloses that

5.1 settlement may include levying a total amount of the utilization charge for each user and the application service charge acquired for each user by a plurality of the content providers. See, for example, at least Col. 5, line 45-Col. 6, line 14, Col. 42, line 35-Col. 43, line 20. See also Fig. 4 and related text concerning different types of charges levied. For settlement and distribution to content providers, please see at least Col. 316, lines 5-53.

5.2 a total amount of the application utilization charge for each user being calculated based on the utilization charge information of said content provider registration storage means and the information on the utilization start time and the utilization end time of said application generated by the application execution function. See, fore example, at least Col. 154, lines 21-Col. 155, line 35.

5.3 a application service charge being calculated based on the amount of the application utilized for each of said content providers. See, for example, Fig. 4 and related text concerning different types of charges levied. For settlement and distribution to content providers, please see at least Col. 316, lines 5-53.

**As per claim 6,** Ginter discloses methods for executing applications of an electronic hub, comprising the steps of:

6.1 settling an utilization charge for each user corresponding to the amount of utilization of each application and the application service charge acquired by each content provider. See, for example, at least Col. 5, line 45-Col. 6, line 14, Col. 42, line 35-Col. 43, line 20. See also Fig. 4 and related text concerning different types of

charges levied. For settlement and distribution to content providers, please see at least Col. 316, lines 5-53.

6.3 storing the content provider registration information in storage means in response to a request, if any, for application registration from a content provider. See, for example, col. 20, lines 4-23, Col. 24, lines 54-Col. 25, line 35, Col. 130, lines 19-32, Col. 139, lines 8-15.

6.3 executing applications of a plurality of different content providers. See, for example, Col. 15, line 62-Col. 16, line 44.

**As per claim 7,** Ginter discloses computer-readable storage medium for executing applications of an electronic hub, comprising the functions of:

7.1 settling an utilization charge for each user corresponding to the amount of utilization of each application and the application service charge acquired by each content provider. See, for example, at least references to time spent using software, as in Col. 317, line 13-Col. 318, line 58. See also at least Fig. 4 and related text concerning different types of charges levied. For settlement and distribution to content providers, please see at least Col. 316, lines 5-53.

7.3 storing the content provider registration information in storage means in response to a request, if any, for application registration from an content provider. See, for example, col. 20, lines 4-23, Col. 24, lines 54-Col. 25, line 35, Col. 130, lines 19-32, Col. 139, lines 8-15.

7.3 executing applications of a plurality of different content providers. See, for example, Col. 15, line 62-Col. 16, line 44.

As per claim 8, Ginter discloses an electronic hub system linked with a plurality of content providers, comprising:

8.1 an electronic hub including storage means for monitoring [registering] the execution applications of a plurality of content providers. See, for example, at least Col. 154, line 41-Col. 155, line 37

See, for example, at least references to time spent using software, as in Col. 317, line 13-Col. 318, line 58.

8.2 means for settling the utilization charge of each user corresponding to the amount of utilization of each application and the application service charge acquired by each content provider. See, for example, at least references to time spent using software, as in Col. 317, line 13-Col. 318, line 58. See also at least Fig. 4 and related text concerning different types of charges levied. For settlement and distribution to content providers, please see at least Col. 316, lines 5-53.

8.3 means for generating the content provider registration information in said storage means in response to an application registration request, if any, from said content provider. See, for example, col. 20, lines 4-23, Col. 24, lines 54-Col. 25, line 35, Col. 130, lines 19-32, Col. 139, lines 8-15.

8.4 means for executing the applications of a plurality of different content providers. See, for example, Col. 15, line 62-Col. 16, line 44.

8.5 at least a user terminal processing unit for requesting said electronic hub to process an application. See, for example, at least Fig. 1, user terminals 208, 210.

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8.6 a plurality of content provider units connected to said electronic hub through a network. See, for example, at least Fig. 1 and related text.

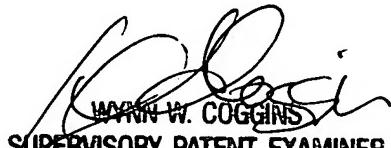
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H Zurita whose telephone number is 703-605-4966. The examiner can normally be reached on 8a-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**James Zurita**  
**Patent Examiner**  
**Art Unit 3625**  
4 March 2005

  
**WYNN W. COGGINS**  
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